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HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Staff Judge Advocate

Yokohama, Japan
25 January 1949

UNITED STATES OF AMERICA VS FUKUJI TAKAHASHI

Review of the Staff Judge Advocate

1. The attached record of trial of Fukuji Takahashi at Yokohama, Japan, tried from 29 June 1948 to 7 July 1948 by a Military Commission appointed by paragraph 3, Special Orders No. 136, Headquarters Eighth Army, United States Army, dated 16 June 1948, having been referred to the Staff Judge Advocate, this review is submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Fukuji Takahashi
AGE: 36
RESIDENCE: Akita Ken, Kazuno Gun, Kosaka-Machi, Kami-Kosaka #58
MARITAL STATUS: Married
RELATIVES: Wife, 2 daughters, mother.
EDUCATION: Primary school 5 years
VOCATION: Farming
MILITARY CAREER: In Army 1938 - Nov.1941

DATE OF CONFINEMENT: 24 January 1948
DATE OF ARRAIGNMENT: 1 July 1948
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 29 June 1948 to 7 July 1948
DATE OF SENTENCE: 7 July 1948
SENTENCE: CHL for four (4) years
CLEMENCY RECOMMENDED BY COMMISSION: No

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2. Synopsis of Charge, Pleas, Findings and Legal Sufficiency:

Charge and Specifications:	Pleas	Findings	Legally Sustained
Ch: Accused, at the times and places set forth in the specifications, and during a time of war between the United States of America, its Allies and Dependencies, and Japan, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: In or about July 1945, on various occasions, the accused did willfully and unlawfully mistreat Donald C. Ashman, an American PW, by beating him and otherwise abusing him.	NG	NG	
Sp 2: In or about June 1945, the accused did willfully and unlawfully mistreat Harry J. Balconis, an American PW, by beating him with an iron bar and otherwise abusing him.	NG	G	Yes
Sp 3: Between about 25 January 1945 and about 1 September 1945, on various occasions, the accused did willfully and unlawfully mistreat Louis B. Celusniak, an American PW, by beating him.	NG	G	Yes
Sp 4: In or about June or July 1945, the accused did willfully and unlawfully mistreat John Feldt, an American PW, by beating him.	NG	G	Yes

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Sp 5: In or about July 1945, the accused did willfully and unlawfully mistreat Jake Ford, an American PW, by beating him.	NG	G	Yes
Sp 6: Between about 25 January 1945 and about 1 September 1945, on several occasions, the accused did willfully and unlawfully mistreat Ginner Grant, an American PW, by beating him.	NG	NG	
Sp 7: In or about June 1945, the accused did willfully and unlawfully mistreat Jimmie L. Guinn, an American PW, by beating him with a wooden stick and otherwise abusing him.	NG	NG	
Sp 8: Between about 15 May 1945 and about 15 August 1945, the accused did willfully and unlawfully mistreat William L. Hardister, an American PW, by beating him.	NG	NG	
Sp 9: In or about February 1945, on several occasions, the accused did willfully and unlawfully mistreat William L. Jobe, an American PW, by beating him.	NG	NG	
Sp 10: Between about 25 January 1945, and about 1 September 1945, the accused did willfully and unlawfully mistreat Charles A. Kirklen, an American PW, by beating him with a stick.	NG	NG	
Sp 11: In or about July 1945, the accused did willfully and unlawfully mistreat Walter H. Lieb, an American PW, by beating and otherwise abusing him.	NG	NG	
Sp 12: In or about June and July 1945, on numerous occasions, the accused did willfully and unlawfully mistreat Lawrence M. McQueeney, an American PW, by beating, kicking and otherwise abusing him.	NG	G	Yes
Sp 13: In or about August 1945, on various occasions, the accused did willfully and unlawfully mistreat Albert J. Poussard, an American PW, by beating, kicking and otherwise abusing him.	NG	NG	
Sp 14: In or about July 1945, the accused did willfully and unlawfully mistreat Dave E. Romero, an American PW, and another unidentified Allied PW, by beating, kicking and otherwise abusing them.		Nolle Prossed, R 3	
Sp 15: Between about April 1945 and about 1 September 1945 the accused did willfully and unlawfully mistreat Russell D. Spotts, an American PW, by beating him.	NG	G	Yes

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Sp 16: In or about June 1945 the accused did willfully and unlawfully mistreat Roland W. Towers, an American PW, by beating and otherwise abusing him.	NG	G	Yes
Sp 17: Between about 13 May 1945 and about 1 September 1945, the accused did willfully and unlawfully mistreat Joseph Zito, an American PW, by beating him, striking him with a pick handle and otherwise abusing him.	NG	G	Yes
Sp 18: Between about 25 January 1945 and about 1 September 1945, on numerous occasions not hereinabove specified, the accused did willfully and unlawfully mistreat numerous Allied PWs by striking, kicking, beating and otherwise abusing them.	NG	NG	

3. Summary of the Evidence:

a. For the Prosecution:

As to Specification 1: Not Guilty.

As to Specification 2: In statements taken from accused by the prosecution during January, February and March 1948, accused identifies himself as a former civilian foreman in charge of the labor gang of prisoners of war, working in the vicinity of the machine and blacksmith shops of the Kosako Mining Company, from 20 March 1945 to 10 August 1945. The prisoners of war assigned to work under accused were recovering from illness. Because of language barriers, accused admits he may have pushed prisoners of war around gently to direct them in their work. Accused certified photograph on 10 March 1948 as a genuine photograph of himself (Ex 35, 40). Balconis identifies this photograph as "Jumbo" Takahashi, the accused (Ex 3).

In the early part of June 1945, Balconis was struck with a heavy iron bar across his head and shoulder by accused and his head was split open about two inches in back of his right ear, making a gash one inch long and injuring his right shoulder severely. The blow knocked Balconis to the ground and accused then kicked him in the face and ribs (Ex 2). Prisoner of War Spotts saw Balconis severely beaten by accused on another occasion, to the extent that he (Balconis) was hospitalized and Prisoner of War Spotts identified the photograph as that of "Jumbo" (Ex 5, 6). Other beatings are described by Prisoners of War Smith and Hardister (Ex 4, 7).

As to Specification 3: Prisoner of War Celusniak states that in March 1945, "We were unloading a car of coal and ice was frozen in the coal. We were having a hard time getting it out and a buddy of mine offered to relieve me for a while. I went to get down out of the car when "Jumbo" walked up and hit me in the mouth with his fist." Accused beat him several times with sticks and his fists. Affiant identifies photograph of accused as his assailant (Ex 8, 9). Prisoner of War Clark saw Slewsnak (phonetic), of Marlin, Texas, beaten so badly early in 1945, that he (Slewsnak) had to be carried out on a stretcher. Prisoner of War Clark also saw accused beat Slewsnak many other times for no reason at all (Ex 10).

As to Specification 4: Prisoner of War John Feldt states that in June or July 1945, he was one of five men moving some heavy mining equipment, which was too heavy for them to move. Feldt tried to explain this to accused but accused got "fanatic" and beat Feldt very severely but did not use any instrument (Ex 11). Prisoner of War McQueeney saw accused hit Feldt more than once between 17 May and the last week in July 1945 (Ex 12).

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As to Specification 5: Prisoner of War McQueeney states that accused worked the "black gang", collecting scrap iron for the blacksmith shop and foundry and that between 17 May and the last week in July 1945, he saw accused hit Prisoner of War Jake Ford more than once (Ex 12). Prisoner of War Ashman witnessed the beating of Ford by accused during July 1945 (Ex 1). Prisoner of War Hardister confirms beatings but does not state that he saw them or gives dates (Ex 4).

As to Specifications 6, 7, 8, 9, 10, 11: Not Guilty.

As to Specification 12: Prisoner of War Lawrence M. McQueeney worked for accused in the "black gang", collecting scrap iron for the blacksmith shop and for the foundry from 17 May to the last week in July 1945, at which time accused was beating him so much he asked for a transfer and was sent to the copper smelters. Around the end of June 1945, he was on a detail moving a large iron pot. He had diarrhea and wanted to go to the latrine. "Jumbo" accused him of not wanting to work and gave McQueeney a terrific beating with his hands and feet (Ex 12). Beatings are corroborated by Prisoners of War Zito (Ex 20) and Swanson (Ex 22).

As to Specification 13: Not Guilty.

As to Specification 14: Nolle Prosequi.

As to Specification 15: Accused struck Prisoner of War Spotts while on a general detail with his fists, bruising his face, arms and shoulders (Ex 5). Spotts identified photograph of accused as his assailant, as Takahashi, known as "Jumbo" (Ex 6). Prisoner of War Jobe similarly identified photograph of accused "Jumbo" and states he saw Prisoner of War Spotts beaten about twenty times by accused with his fists for going to the latrine without permission (Ex 16, 17). Prisoner of War Hardister states that accused beat Prisoner of War Spotts but does not say he was a witness (Ex 4).

As to Specification 16: In an affidavit signed at Kosaka on 9 September 1945, Prisoner of War Towers states that on 5 June 1945 he was working under accused, cleaning up the yard and moving old scrap iron and pipe when he stepped back to make room for someone else. Accused beat him with fists and sticks, knocking him out (Ex 23). This is corroborated in a Statement of Grievances (Ex 15), dated POW Camp #8, Kosaka, 8 September 1945, signed by Staff Sergeant Joseph Zito, former Prisoner of War, and witnessed by ten other Prisoners of War, four of whom have subsequently identified photograph of accused (identified by accused as that of himself) as that of "Jumbo" (Ex 3, 6, 21, 26).

In a separate statement, Prisoner of War Zito states that Towers was beaten unconscious with fists and a club by accused for pausing a few moments in his work (Ex 20). Prisoner of War Balconis states that accused beat Sergeant "Powers" (referring to Towers) unmercifully with fists and a plank because he was unable to pick up a heavy, cast-iron form. Powers was an older man and, as a result of the beating, was sent to the hospital and received permanent injuries, both mentally and physically (Ex 2, 3). Beatings given Towers by accused were witnessed by other prisoners of war (Ex 1, 4, 5, 11, 12, 25, 27, 29-32, 42). Further photograph identification was made by Prisoner of War Dooley (Ex 28).

As to Specification 17: Prisoner of War Joseph Zito prepared the Statement of Grievances (Ex 15) wherein accused is also charged with throwing a pick at him, the handle striking him in the leg, after which accused charged on him in a rage, striking Zito in the face with his fists (Ex 20). This occurred in June 1945 and is corroborated by other prisoners of war (Ex 4, 14, 15).

As to Specification 18: Not Guilty.

b. For the Defense:

The accused having been warned of his rights as a witness, took the stand and testified that there was a Takahashi, larger than him, who worked in the blacksmith shop, in the same area in which accused worked, supervising the work of prisoners of war. There were also other Takahashis working for the same company in 1945. Accused did strike two prisoners of war, once each, with the open

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palm of his hand; one for stealing a light socket and rather than have him put in the guardhouse, he showed the prisoner of war the kindness of precautioning him in this way; the other for staying away two hours and wandering into the mess hall, after having been given permission to go to the latrine (R 66). Accused never heard himself referred to as "Jumbo".

On the question of mis-identification of accused, defense introduced the body of accused himself as Exhibit A to establish various measurements (R 55) as to height, weight and general physical appearance, as being contradictory both to the appellation "Jumbo" and to descriptive data given by the prisoners of war in their statements.

Three witnesses, including accused's wife, Tomei, testified that accused's physical appearance, particularly as to weight, had not changed perceptively from 1945 or early in 1946 to the time of trial when he was exhibited to the commission as Exhibit A (R 59, 61, 83).

Koichi Furuta (R 57) testified that he is vice-president of the Hanaoka Mining Company and was labor section chief of the Kosaka Mining Company during 1945. There were five or six Takahashis employed by the company, although he did not know any of these employees personally. Takahashi is a comparatively common name in the locality of Kosaka.

4. Opinion:

The record is legally sufficient to support the findings of the commission. The commission was constituted by proper authority and had jurisdiction over the accused and of the offenses alleged. There is no evidence that accused was not sane at the time of the commission of the alleged acts and at the time of the trial. The accused was given a fair trial and was represented by competent counsel. The accused took the stand and testified in his own behalf. No ruling of the commission was prejudicial to the substantial rights of the accused.

The accused was identified as "Jumbo" not only as the individual who had charge of sick prisoners of war around the area of the machine shops and by various physical descriptions in the statements made by former prisoners of war who worked under him, but by photographic identification by seven prisoners of war of a photograph which accused identified as of himself.

5. Recommendations:

No request for clemency has been submitted. The sentence is legal and is not considered excessive. The commission sentenced accused, Fukuji Takahashi, to be confined at hard labor at such place as the reviewing authority may direct for four (4) years. It is recommended that the sentence be approved. In compliance with present policy, due to the length of time that the accused has been in confinement, it is further recommended that two and one-half ($2\frac{1}{2}$) months of the sentence imposed be remitted. Sugamo Prison, Tokyo, Honshu, Japan, is the proper place of confinement.

6. Action:

Attached is a form of action designed to effectuate the foregoing recommendations.

LAWRENCE E. JOHNSON
Lt. Colonel, INF
Reviewer
Judge Advocate Section

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I concur in general.

The sentence is inadequate by comparison with those of other commissions for similar offenses,

ALLAN R. BROWNE
Lt Col JAGD
Army Judge Advocate

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